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17 Attorneys for Defendants Papa John's USA, Inc.; Wanderspot LLC;
18 Expedia, Inc.; Hotels.com, LP; Hotel Tonight, Inc.; Hotwire, Inc.; Kayak
19 Software Corp.; Orbitz, LLC; Travelocity.com, LP; Fandango, Inc.;
20 StubHub, Inc.; Ticketmaster LLC; Live Nation Entertainment, Inc.; and
21 Micros Systems, Inc.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

AMERANTH, INC.,

Plaintiff,

v.

MICROS SYSTEMS, INC.,

Defendant.

Civil Action No. 12-CV-1655-JLS-NLS
[Consolidated with 3:11-CV-01810-JLS-NLS]
**DECLARATION OF MICHAEL L. RUSSO
ON BEHALF OF MICROS SYSTEMS,
INC.**

**FILED UNDER SEAL PURSUANT TO
PROTECTIVE ORDER – CONTAINS
INFORMATION DESIGNATED
“HIGHLY CONFIDENTIAL –
ATTORNEYS’ EYES ONLY”**

1 **DECLARATION OF MICHAEL L. RUSSO ON BEHALF OF**
2 **MICROS SYSTEMS, INC.**

3 A. **INTRODUCTION**

4 1. I, Michael L. Russo, declare as follows:
5
6 2. I serve as a Chief Technology Officer for MICROS Systems,
7 Inc. ("MICROS"). I have personal knowledge of the matters stated in this
8 declaration.
9
10 3. I understand that Plaintiff seeks to require MICROS to produce
11 all of the source code and associated tools and files for the following eight
12 MICROS products (collectively, the "MICROS Solutions"): (a) Simphony;
13 (b) OPERA, which is sometimes referred to as OPERA Property
14 Management System or OPERA Enterprise; (c) myCentral which includes
15 components referred to as mymenu and web-Ordering; (d) Hotel Commerce
16 Platform, which includes mystaymanager (myCentral and/or Hotel
17 Commerce Platform are sometimes referred to as MICROS eCommerce
18 Solutions); (e) myreservations; (f) HSI Profit Series system; (g) MyHSI; and
19 (h) MICROS Restaurant Enterprise Solution, which is sometimes referred to
20 as the MICROS RES, and which includes the component Micros Table
21 Management System.

22 4. I am offering this declaration to explain:
23 a. the effort MICROS's employees would have to undertake
24 to gather some of the materials requested;
25 b. why it would be difficult, very time-consuming and
26 expensive for MICROS to provide some of the materials requested;

1 c. why it would be difficult, very time-consuming and
2 expensive to set-up fully-functioning versions of the MICROS Solutions
3 and/or any full test environment, as requested in Plaintiff's Source Code
4 Position Statement (December 19, 2012) ("Plaintiff's Position Statement");
5 and

6 d. what MICROS proposes as a more reasonable source
7 code production in this matter.

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13 **G. A REASONABLE FORM OF SOURCE CODE PRODUCTION**

14 26. In contrast to what Plaintiff has proposed, a reasonable
15 production for the MICROS Solutions in this case would consist of collecting
16 the specific source code related to the functionality the Plaintiff will be
17 identifying in its infringement contentions, which collection can likely be
18 completed in lesser time.

19 Given my understanding of how the MICROS Solutions work, what
20 Plaintiff has requested in its Position Statement (*i.e.*, a full test environment
21 or full source code escrow of each of the 8 MICROS Solutions) would be a
22 significant burden on MICROS's resources and a significant expense.
23 MICROS has never been required to undertake that extreme burden in any
24 previous patent cases.

1 I declare under penalty of perjury under the laws of the United States
2 of America that the foregoing is true and correct.

3 Executed on January 11, 2013, at Columbia, Maryland.



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5 Michael L. Russo on behalf MICROS
6 Systems, Inc.
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